IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

TUESDAY THE SIXTH DAY OF APRIL TWO THOUSAND AND FOUR
: PRESENT :
THE HON'BLE MR.JUSTICE: **N.V. RAMANA**

W.P. No.*6523 of 2004

Between:
ACTIVE Power Corporation Pvt Ltd, (Company Registered under the Companies Act, 1956) b-68, Journalist Colony, Jubilee Hills, Hyderabad-33, rep. by its Manager, P. Udaya Bhaskara Rao

Petitioner

AND

1. The Union of India, rep. by its Secretary, Ministry of Energy, Central Secretariat Buildings, New Delhi-1.
2. The Andhra Pradesh Electricity Rgulatory Commissioner, Red Hills, Hyderabad, rep. by its Chairman.
3. The Andhra Pradesh Transmission Company Ltd, Vidyut Soudha, Somajiguda, Hyderabad., rep. by its Chairman cums Managing Director.

Respondents

Petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly a writ in the nature of Mandamus, the action of the 1st respondent in not establishing the Tribunal as contemplated under Section 110 of the Electricity Act, 2003 as violative of the principles of Natural Justice and further declare that the action of the 2nd respondent in revising the purchasing rate of the Electrical Energy through its order dated 20-3-2004 in RP No. 84/2003 in OP No.1025/2000 with a drastic reduction from the prevailing tariff considering the Objections and the scientific data supplied by the Petitioner through its Association, and even in negation of the recommendations of the 3rd respondent, the expert body, as being illegal, arbitrary, violative of principles of promissory estoppel besides being violative of Article 19 (1)(g) of the Constitution of India and the dated 20-3-2004 of the 2nd respondent with a direction to the ist respondent to establish the Appellate Electricity Tribunal as was envisat3ed under Section 113 of the Electric Act, 2003.s

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.P. Srinivasulu,Advocate for the Petitioner and of Mr. T. Suryakaran Reddy, S.C. for Central Govt., for the Respondent No.1 and of Mr.P. Sri Raghu Ram, Advocate for the Advocate for Respondent No.2. and of Smt. M. Vinobha Devi, Advocate for the respondent No.3.

The Court made the following ORDER :

"The learned Counsel for the petitioner submits that under Section 110 of the Indian Electricity Act, 2003, respondent No.1-Central Government is under an obligation to establish an Appellate Tribunal for Electricity to hear appeals against the orders of respondent No.2, Electricity Regulatory Commission, and inasmuch as no Appellate Tribunal has been established by respondent No.1-Central Government, the petitioner is left with no remedy, except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India to assail the orders of respondent No.2-Electricity

Regulatory Commission.

The learned Standing Counsel for Central Government took notice for respondent No.1-Central Government and sought time to get instructions as to the date by which the Appellate Tribunal could be established. The learned Standing Counsel appearing on behalf of respondent Nos.2 and 3 took notice, and sought time to file counter.

The learned counsel for the petitioner contends that failure to constitute the Appellate Tribunal has deprived the petitioner-Association of their statutory right of appeal. He further contends that if the new tariff order is enforced, petitioner will have to close down their units.

In the above circumstances, I consider it appropriate to make the following order:

For a period of three weeks, respondent No.3 shall continue to pay to the petitioner for the power supplied by them as per the tariff existing prior to 1-4-2004. It is needless to mention that any difference of amount, between the old and new tariff, paid by respondent No.3 to the petitioner by virtue of this interim order, can always be adjusted by respondent No.3 against the future bills of the petitioner, in the event the writ petition is dismissed.

List the matter on 19-4-2004."

Sd/-S. BHARATHI

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Secretary, Union of India, Ministry of Energy, Central Secretariat Buildings, New Delhi-1.
2. The Chairman, Andhra Pradesh Electricity Rgulatory Commission, Red Hills, Hyderabad,
3. The Chairman cum Managing Director, Andhra Pradesh Transmission Company Ltd, Vidyut Soudha, Somajiguda, Hyderabad., (**1 to 3 BY RPAD**)
4. One Spare Copy.

***W.P.No.6523/2004 is corrected instead of WP.No.6253/2004**

N.B: This corrected order shall be substituted for the order dt. 6-4-2004

already despatched on 7-4-2004.

Sd/-S. BHARATHI
ASSISTANT REGISTRAR

HIGH COURT

NVRJ

DT. 6-4-2004

NOTE: LIST THE MATTER ON 19-4-2004

AMENDED ORDER

W.P.NO.6523 OF 2004

DIRECTION